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- Step C ..... Divide the result from step A by the result from step B. Carry this result to the seventh decimal place and truncate, rather than round, the result. This decimal factor represents the employee's relative position in the rate range.
- Step D ..... Using the current GS rate range (for the employee's current grade), find the difference between the maximum rate and the minimum rate. (If the maximum GS rate was not payable because of the EX level V pay limitation, use the uncapped maximum GS rate.)
- Step E ..... Multiply the result from step D by the factor derived under step C.
- Step F ..... Add the result from step E to the minimum rate for the employee's current GS rate range and round to the next higher whole dollar. This rate is the maximum payable GS rate the agency may pay the employee (subject to the EX level V pay limitation).

(3) In applying § 531.221(c) for an employee whose highest previous rate is a special rate, the highest previous rate (after any geographic conversion) must be compared directly to the current highest applicable rate range for the employee's position of record and official worksite after reassignment. Thus, the rate identified under paragraph (c)(1) of this section is the maximum payable rate of basic pay.

[70 FR 31291, May 31, 2005, as amended at 73 FR 66153, Nov. 7, 2008]

**Subpart C [Reserved]****Subpart D—Within-Grade Increases**

SOURCE: 46 FR 2319, Jan. 9, 1981, unless otherwise noted.

**§ 531.401 Principal authorities.**

The following are the principal authorities for the regulations in this subpart:

(a) Section 2301(b)(3) of title 5, United States Code, provides in part that “appropriate incentives and recognition should be provided for excellence in performance.”

(b) Section 5301(a)(2) of title 5, United States Code, provides that “pay distinctions be maintained in keeping with work and performance distinctions.”

(c) Section 5338 of title 5, United States Code, provides that “The Office of Personnel Management may prescribe regulations necessary for the ad-

ministration” of General Schedule pay rates, including within-grade increases.

(d) Section 4 of the Performance Management and Recognition System Termination Act of 1993 (Pub. L. 103–89) provides that “the Office of Personnel Management shall prescribe regulations necessary for the administration of this section.”

[51 FR 8419, Mar. 11, 1986, as amended at 59 FR 40793, Aug. 10, 1994; 60 FR 33098, June 27, 1995]

**§ 531.402 Employee coverage.**

(a) Except as provided in paragraph (b) of this section, this subpart applies to employees who—

(1) Are classified and paid under the General Schedule;

(2) Occupy permanent positions; and

(3) Are paid less than the maximum rate of their grade.

(b) This subpart does not apply to any employee who is appointed by the President, by and with the advice and consent of the Senate.

[70 FR 31301, May 31, 2005]

**§ 531.403 Definitions.**

In this subpart:

*Acceptable level of competence* means performance by an employee that warrants advancement of the employee's rate of basic pay to the next higher step of the grade or the next higher rate within the grade (as defined in this section) of his or her position, subject to the requirements of § 531.404 of this subpart, as determined by the head of the agency (or designee).

*Agency* means an agency with employees covered by this subpart, as provided in § 531.402.

*Calendar week* means a period of any seven consecutive calendar days.

*Critical element* has the meaning given that term in § 430.203 of this chapter.

*Employee* has the meaning given that term in 5 U.S.C. 2105, except that for the purpose of applying the provisions regarding equivalent increases and creditable service with respect to non-GS service, *employee* also includes—

(1) An individual employed by the U.S. Postal Service or the Postal Rate Commission who would be considered an employee under 5 U.S.C. 2105 but for the exclusion in section 2105(e); and

(2) An individual employed by a non-appropriated fund instrumentality for service that is creditable under § 531.406(b)(4).

*Equivalent increase* means an increase in an employee's rate of basic pay, or an opportunity for such an increase under a non-GS pay system, as described in § 531.407.

*General Schedule* or *GS* means the classification and pay system established under 5 U.S.C. chapter 51 and subchapter III of chapter 53. The term also refers to the pay schedule of GS rates established under 5 U.S.C. 5332, as adjusted under 5 U.S.C. 5303 or other law (including GS rates payable to GM employees). Law enforcement officers receiving LEO special base rates are covered by the GS classification and pay system, but receive higher base rates of pay in lieu of GS rates at grades GS-3 through GS-10.

*GM employee* has the meaning given that term in 5 CFR 531.203.

*GS rate* means a rate of basic pay within the General Schedule, excluding additional pay of any kind such as locality payments under subpart F of this part and special rate supplements under 5 CFR part 530, subpart C, or 38 U.S.C. 7455. A rate payable to a GM employee is considered a GS rate.

*Law enforcement officer* or *LEO* has the meaning given that term in 5 CFR 550.103.

*LEO special base rate* means a special base rate established for GS law enforcement officers at grades GS-3 through GS-10 under section 403 of the Federal Employees Pay Comparability

Act of 1990 (section 529 of Pub. L. 101-509, November 5, 1990, as amended) which is used in lieu of a GS rate.

*Next higher rate within the grade* for a GM employee means the rate of basic pay that exceeds the employee's existing rate of basic pay by one within-grade increase, not to exceed the maximum rate of the grade. For the purpose of this definition, a within-grade increase equals the dollar value of the GS within-grade increase for the applicable grade (excluding any locality payment, special rate supplement, or any other additional payment).

*Permanent position* means a position filled by an employee whose appointment is not designated as temporary by law and does not have a definite time limitation of one year or less. "Permanent position" includes a position to which an employee is promoted on a temporary or term basis for at least one year.

*Promotion* means an employee's movement from one grade or level to a higher grade or level while continuously employed (including such a movement in conjunction with a transfer).

*Rate of basic pay* means the rate of pay fixed by law or administrative action for the position held by an employee before any deductions and exclusive of additional pay of any kind. For an employee covered by the General Schedule, that *rate of basic pay* is the GS rate or, if applicable, an LEO special base rate.

*Scheduled tour of duty* means any work schedule established for an employee in accordance with the regular procedures for the establishment of workweeks in § 610.111 of this chapter. For a full-time employee this includes the basic 40-hour workweek. For a part-time employee this is any regularly scheduled work of less than 40-hours during the administrative workweek.

*Temporary promotion* means a time-limited promotion with a not-to-exceed date or a specified term.

*Waiting period* means the minimum time requirement of creditable service to become eligible for consideration for a within-grade increase.

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*Within-grade increase* is synonymous with the term “step increase” used in 5 U.S.C. 5335 and means—\* \*

(1) A periodic increase in an employee's rate of basic pay from one step of the grade of his or her position to the next higher step of that grade in accordance with section 5335 of title 5, United States Code, and this subpart; or

(2) For a GM employee whose rate does not equal a regular GS step rate (i.e., an off-step rate), a periodic increase in an employee's rate of basic pay from the employee's current rate to the next higher rate within the grade (as defined in this section) consistent with section 4 of Public Law 103-89.

[46 FR 2319, Jan. 9, 1981, as amended at 46 FR 41019, Aug. 14, 1981; 48 FR 49486, Oct. 25, 1983; 51 FR 8420, Mar. 11, 1986; 58 FR 65536, Dec. 15, 1993; 59 FR 40793, Aug. 10, 1994; 60 FR 33098, June 27, 1995; 60 FR 43947, Aug. 23, 1995; 70 FR 31301, May 31, 2005]

#### § 531.404 Earning within-grade increase.

An employee paid at less than the maximum rate of the grade of his or her position shall earn advancement in pay to the next higher step of the grade or the next higher rate within the grade (as defined in § 531.403) upon meeting the following three requirements established by law:

(a) The employee's performance must be at an acceptable level of competence, as defined in this subpart. To be determined at an acceptable level of competence, the employee's most recent rating of record (as defined in § 430.203 of this chapter) shall be at least Level 3 (“Fully Successful” or equivalent).

(1) When a within-grade increase decision is not consistent with the employee's most recent rating of record a more current rating of record must be prepared.

(2) The rating of record used as the basis for an acceptable level of competence determination for a within-grade increase must have been assigned no earlier than the most recently completed appraisal period.

(b) The employee must have completed the required waiting period for

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advancement to the next higher step of the grade of his or her position.

(c) The employee must not have received an equivalent increase during the waiting period.

[51 FR 8420, Mar. 11, 1986, as amended at 58 FR 65536, Dec. 15, 1993; 60 FR 43948, Aug. 23, 1995]

#### § 531.405 Waiting periods for within-grade increase.

(a) *Length of waiting period.* (1) For an employee with a scheduled tour of duty, the waiting periods for advancement to the next higher step in all General Schedule grades (or the next higher rate within the grade, as defined in § 531.403) are:

(i) Rate of basic pay less than the rate of basic pay at step 4-52 calendar weeks of creditable service;

(ii) Rate of basic pay equal to or greater than the rate of basic pay at step 4 and less than the rate of basic pay at step 7-104 calendar weeks of creditable service; and

(iii) Rate of basic pay equal to or greater than the rate of basic pay at step 7-156 calendar weeks of creditable service.

(2) For an employee without a scheduled tour of duty, the waiting periods for advancement to the next higher step of all General Schedule grades (or the next higher rate within the grade, as defined in § 531.403) are:

(i) Rate of basic pay less than the rate of basic pay at step 4-260 days of creditable service in a pay status over a period of not less than 52 calendar weeks;

(ii) Rate of basic pay equal to or greater than the rate of basic pay at step 4 and less than the rate of basic pay at step 7-520 days of creditable service in a pay status over a period of not less than 104 calendar weeks; and

(iii) Rate of basic pay equal to or greater than the rate of basic pay at step 7-780 days of creditable service in a pay status over a period of not less than 156 calendar weeks.

(b) *Commencement of a waiting period.* A waiting period begins;

(1) On the first appointment as an employee of the Federal Government, regardless of tenure;

(2) On receiving an equivalent increase; or

(3) After a period of nonpay status or a break in service (alone or in combination) in excess of 52 calendar weeks, unless the nonpay status or break in service is creditable service under § 531.406 of this subpart.

(c) A waiting period is not interrupted by non-workdays intervening between an employee's last scheduled workday in one position and his or her first scheduled workday in a new position.

[46 FR 2319, Jan. 9, 1981, as amended at 58 FR 65536, Dec. 15, 1993; 59 FR 40794, Aug. 10, 1994]

#### § 531.406 Creditable service.

(a) *General.* Civilian employment in any branch of the Federal Government (executive, legislative, or judicial) or with a Government corporation as defined in section 103 of title 5, United States Code, is creditable service in the computation of a waiting period. Service credit is given during this employment for periods of annual, sick, and other leave with pay; advanced annual and sick leave; service under a temporary or term appointment; and service under an interim appointment made under § 772.102 of this chapter. Depending on the specific provision of law or regulation, service may be creditable for the completion of one waiting period or for the completion of successive waiting periods. Paragraph (b) of this section identifies service which is creditable in the computation of a single waiting period. Paragraph (c) identifies service which is creditable in the computation of successive waiting periods.

(b) *Service creditable for one within-grade increase.* (1) Military service as defined in section 8331(13) of title 5, United States Code, is creditable service in the computation of a waiting period when an employee is reemployed with the Federal Government not later than 52 calendar weeks after separation from such service or hospitalization continuing thereafter for a period of not more than one year.

(2) Time in a nonpay status (based upon the tour of duty from which the time was charged) is creditable service in the computation of a waiting period for an employee with a scheduled tour of duty when it does not exceed an aggregate of:

(i) Two workweeks in the waiting period for an employee whose rate of basic pay is less than the rate of basic pay for step 4 of the applicable grade;

(ii) Four workweeks in the waiting period for an employee whose rate of basic pay is equal to or greater than the rate of basic pay for step 4 of the applicable grade and less than the rate of basic pay for step 7 of the applicable grade; and

(iii) Six workweeks in the waiting period for an employee whose rate of basic pay is equal to or greater than the rate of basic pay for step 7 of the applicable grade.

(3) Except as provided in paragraph (c) of this section, time in a nonpay status (based upon the tour of duty from which the time was charged) that is in excess of the allowable amount shall extend a waiting period by the excess amount.

(4) Service by an employee of a non-appropriated fund instrumentality of the Department of Defense or the Coast Guard, as defined in 5 U.S.C. 2105(c), who moves, within the civil service employment system of the Department of Defense or the Coast Guard, respectively, and without a break in service of more than 3 days, to a position classified and paid under the General Schedule, is creditable service in the computation of a waiting period.

(c) *Service creditable for successive within-grade increases.* (1) A leave of absence from a position in which an employee is covered by this subpart, whether the employee is on leave without pay or is considered to be on furlough, is creditable service in the computation of waiting periods for successive within-grade increases when:

(i) The employee is absent for the purpose of engaging in military service as defined in section 8331(13) of title 5, United States Code, and returns to a pay status through the exercise of a restoration right provided by law, Executive order, or regulation;

(ii) The employee is receiving injury compensation under subchapter I of chapter 81 of title 5, United States Code;

(iii) The employee is performing service that is creditable under section 8332(b) (5) or (7) of title 5, United States Code;

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(iv) The employee is temporarily employed by another agency in a position covered by this subpart; or

(v) The employee is assigned to a State or local government or institution of higher education under sections 3371–3376 of title 5, United States Code.

(2) The period from the date of an employee's separation from Federal service with a restoration or reemployment right granted by law, Executive order, or regulation to the date of restoration or reemployment with the Federal Government through the exercise of that right is creditable service in the computation of waiting periods for successive within-grade increases.

(3) The period during which a separated employee is in receipt of injury compensation under subchapter I of chapter 81 of title 5, United States Code, as a result of an injury incurred by the employee in the performance of duty is creditable service in the computation of waiting periods for successive within-grade increases when the employee is reemployed with the Federal Government.

[46 FR 2319, Jan. 9, 1981, as amended at 46 FR 41019, Aug. 14, 1981; 46 FR 43371, Aug. 28, 1981; 46 FR 45747, Sept. 15, 1981; 57 FR 3712, Jan. 31, 1992; 57 FR 12404, Apr. 10, 1992; 59 FR 40794, Aug. 10, 1994; 59 FR 66332, Dec. 28, 1994; 73 FR 66153, Nov. 7, 2008]

### § 531.407 Equivalent increase determinations.

(a) *GS employees.* For a GS employee, an equivalent increase is considered to occur at the time of any of the following personnel actions:

(1) A within-grade increase, excluding a quality step increase granted under subpart E of this part or an interim within-grade increase if that increase is later terminated under § 531.414;

(2) A promotion (permanent or temporary) to a higher grade, including the promotion of an employee receiving a retained rate under 5 CFR 359.705 or 5 CFR part 536 that does not result in a pay increase, but excluding—

(i) A temporary promotion if, at the end of the that temporary promotion, the employee is returned to the grade from which promoted; or

(ii) A promotion to a higher-graded supervisory or managerial position when the employee does not satisfac-

torily complete a probationary period established under 5 U.S.C. 3321(a)(2) and is returned to a position at the lower grade held before promotion;

(3) Application of the maximum payable rate rule in § 531.221 that results in a higher step rate within the employee's GS grade (or an increase for a GM employee to the next higher rate within the grade), except for application of that rule in a demotion to the extent that the employee's rate of basic pay after demotion does not exceed the lowest step rate that equals or exceeds the employee's rate of basic pay immediately before the demotion;

(4) Application of the superior qualifications and special needs pay-setting authority in § 531.212 that results in a higher step rate within the employee's GS grade (or an increase for a GM employee to the next higher rate within the grade); or

(5) Application of the qualifications pay authority in 5 U.S.C. 9814 to an employee of the National Aeronautics and Space Administration, when the employee fulfills the 1-year service requirement in the position for which qualifications pay was paid or in a successor position.

(b) *Non-GS employees who move to the GS pay system.* When an employee performs service under a non-GS pay system for Federal employees and that service is potentially creditable towards a GS within-grade increase waiting period, an equivalent increase is considered to occur at the time of any of the following personnel actions in the non-GS pay system:

(1) A promotion to a higher grade or work level within the non-GS pay system (unless the promotion is cancelled and the employee's rate of basic pay is redetermined as if the promotion had not occurred); or

(2) An opportunity to receive a within-level or within-range increase that results in forward movement in the applicable range of rates of basic pay (including an increase granted immediately upon movement to the non-GS pay system from another pay system—e.g., to account for the value of accrued within-grade increases under the former pay system or to provide a promotion-equivalent increase), where “forward movement in the applicable

range” means any kind of increase in the employee’s rate of basic pay other than an increase that is directly and exclusively linked to—

(i) A general structural increase in the employee’s basic pay schedule or rate range (including the adjustment of a range minimum or maximum); or

(ii) The employee’s placement under a new basic pay schedule within the same pay system, when such placement results in a nondiscretionary basic pay increase to account for occupational pay differences.

(c) *Locality rates and special rates.* Since locality rates under subpart F of this part and special rates under 5 CFR part 530, subpart C, and similar rates under other legal authority (e.g., 38 U.S.C. 7455) are not rates of basic pay for the purpose of this subpart, increases in pay resulting from an adjustment in an employee’s locality payment or special rate supplement or from placement on a new locality rate or special rate schedule are not considered in making equivalent increase determinations.

[70 FR 31301, May 31, 2005, as amended at 70 FR 74995, Dec. 19, 2005; 73 FR 66153, Nov. 7, 2008]

#### § 531.408 [Reserved]

#### § 531.409 Acceptable level of competence determinations.

(a) *Responsibility.* The head of the agency or other agency official to whom such authority is delegated shall determine which employees are performing at an acceptable level of competence.

(b) *Basis for determination.* When applicable, an acceptable level of competence determination shall be based on a current rating of record made under part 430, subpart B, of this chapter. For those agencies not covered by chapter 43 of title 5, United States Code, and for employees in positions excluded from 5 U.S.C. 4301, an acceptable level of competence determination shall be based on performance appraisal requirements established by the agency. If an employee has been reduced in grade because of unacceptable performance and has served in one position at the lower grade for at least the minimum period established by the

agency, a rating of record at the lower grade shall be used as the basis for an acceptable level of competence determination.

(c) *Delay in determination.* (1) An acceptable level of competence determination shall be delayed when, and only when, either of the following applies:

(i) An employee has not had the minimum period of time established at § 430.207(a) of this chapter to demonstrate acceptable performance because he or she has not been informed of the specific requirements for performance at an acceptable level of competence in his or her current position, and the employee has not been given a performance rating in any position within the minimum period of time (as established at § 430.207(a) of this chapter) before the end of the waiting period; or

(ii) An employee is reduced in grade because of unacceptable performance to a position in which he or she is eligible for a within-grade increase or will become eligible within the minimum period as established at § 430.207(a) of this chapter.

(2) When an acceptable level of competence determination has been delayed under this subpart:

(i) The employee shall be informed that his or her determination is postponed and the appraisal period extended and shall be told of the specific requirements for performance at an acceptable level of competence.

(ii) An acceptable level of competence determination shall then be made based on the employee’s rating of record completed at the end of the extended appraisal period.

(iii) If, following the delay, the employee’s performance is determined to be at an acceptable level of competence, the within-grade increase will be granted retroactively to the beginning of the pay period following completion of the applicable waiting period.

(d) *Waiver of requirement for determination.* (1) An acceptable level of competence determination shall be waived and a within-grade increase granted when an employee has not

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served in any position for the minimum period under an applicable agency performance appraisal program during the final 52 calendar weeks of the waiting period for one or more of the following reasons:

(i) Because of absences that are creditable service in the computation of a waiting period or periods under § 531.406 of this subpart;

(ii) Because of paid leave;

(iii) Because the employee received service credit under the back pay provisions of subpart H of part 550 of this chapter;

(iv) Because of details to another agency or employer for which no rating has been prepared;

(v) Because the employee has had insufficient time to demonstrate an acceptable level of competence due to authorized activities of official interest to the agency not subject to appraisal under part 430 of this chapter (including, but not limited to, labor-management partnership activities under section 2 of Executive Order 12871 and serving as a representative of a labor organization under chapter 71 of title 5, United States Code); or

(vi) Because of long-term training.

(2) When an acceptable level of competence determination has been waived and a within-grade increase granted under paragraph (d)(1) of this section, there shall be a presumption that the employee would have performed at an acceptable level of competence had the employee performed the duties of his or her position of record for the minimum period under the applicable agency performance appraisal program.

(e) *Notice of determination.* (1) A level of competence determination shall be communicated to an employee in writing as soon as possible after completion of the waiting period or other period upon which it was based.

(2) When the head of an agency or his or her designee determines that an employee's performance is not at an acceptable level of competence, the negative determination shall be communicated to the employee in writing and shall:

(i) Set forth the reasons for any negative determination and the respects in which the employee must improve his or her performance in order to be

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granted a within-grade increase under § 531.411 of this subpart.

(ii) Inform the employee of his or her right to request that the appropriately designated agency official reconsider the determination.

[46 FR 2319, Jan. 9, 1981, as amended at 51 FR 8420, Mar. 11, 1986; 60 FR 43948, Aug. 23, 1995; 62 FR 62503, Nov. 24, 1997]

### § 531.410 Reconsideration of a negative determination.

(a) When an agency head, or his or her designee, issues a negative determination the following procedures are established in accordance with section 5335(c) of title 5, United States Code for reconsideration of the negative determination:

(1) An employee or an employee's personal representative may request reconsideration of a negative determination by filing, not more than 15 days after receiving notice of determination, a written response to the negative determination setting forth the reasons the agency shall reconsider the determination;

(2) When an employee files a request for reconsideration, the agency shall establish an employee reconsideration file which shall contain all pertinent documents relating to the negative determination and the request for reconsideration, including copies of the following:

(i) The written negative determination and the basis therefore;

(ii) The employee's written request for reconsideration;

(iii) The report of investigation when an investigation is made;

(iv) The written summary or transcript of any personal presentation made; and

(v) The agency's decision on the request for reconsideration.

The file shall not contain any document that has not been made available to the employee or his or her personal representative with an opportunity to submit a written exception to any summary of the employee's personal presentation;

(3) An employee in a duty status shall be granted a reasonable amount of official time to review the material

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relied upon to support the negative determination and to prepare a response to the determination; and

(4) The agency shall provide the employee with a prompt written final decision.

(b) The time limit to request a reconsideration may be extended when the employee shows he or she was not notified of the time limit and was not otherwise aware of it, or that the employee was prevented by circumstances beyond his or her control from requesting reconsideration within the time limit.

(c) An agency may disallow as an employee's personal representative an individual whose activities as a representative would cause a conflict of interest of position, an employee whose release from his or her official duties and responsibilities would give rise to unreasonable costs to the Government, or an employee whose priority work assignment precludes his or her release from official duties and responsibilities. Section 7114 of title 5, United States Code, and the terms of any applicable collective bargaining agreement govern representation for employees in an exclusive bargaining unit.

(d) When a negative determination is sustained after reconsideration, an employee shall be informed in writing of the reasons for the decision and of his or her right to appeal the decision to the Merit Systems Protection Board. However, for an employee covered by a collective bargaining agreement a reconsideration decision that sustains a negative determination is only reviewable in accordance with the terms of the agreement.

[46 FR 2319, Jan. 9, 1981, as amended at 50 FR 45389, Oct. 31, 1985]

### **§531.411 Continuing evaluation after withholding a within-grade increase.**

When a within-grade increase has been withheld, an agency may, at any time thereafter, prepare a new rating of record for the employee and grant the within-grade increase when it determines that he or she has demonstrated sustained performance at an acceptable level of competence. However, the agency shall determine

whether the employee's performance is at an acceptable level of competence after no more than 52 calendar weeks following the original eligibility date for the within-grade increase and, for as long as the within-grade increase continues to be denied, determinations will be made after no longer than each 52 calendar weeks.

[51 FR 8421, Mar. 11, 1986]

### **§531.412 Effective date of a within-grade increase.**

(a) Except as provided in paragraph (b) of this section, a within-grade increase shall be effective on the first day of the first pay period following completion of the required waiting period and in compliance with the conditions of eligibility. Interim within-grade increases shall become effective as provided in §541.414(b).

(b) When an acceptable level of competence is achieved at some time after a negative determination, the effective date is the first day of the first pay period after the acceptable determination has been made.

[46 FR 2319, Jan. 9, 1981, as amended at 46 FR 41020, Aug. 14, 1981; 59 FR 24029, May 10, 1994]

### **§531.413 Reports and evaluation of within-grade increase authority.**

(a) *Reports.* The Office of Personnel Management may require agencies to maintain records and report on the use of the authority to grant or withhold within-grade increases.

(b) *Evaluation.* The Office of Personnel Management may evaluate an agency's use of the authority to grant or withhold within-grade increases. An agency shall take any corrective action required by the Office.

### **§531.414 Interim within-grade increase.**

(a) An interim within-grade increase shall be granted to an employee who has:

(1) Appealed a negative within-grade increase determination to the Merit Systems Protection Board under 5 U.S.C 5335(c); and

(2) Been granted a favorable within-grade increase determination under the interim relief provisions of 5 U.S.C. 7701(b)(2).



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(b) An interim within-grade increase granted under paragraph (a) of this section shall become effective on the date of the appellate decision ordering interim relief under 5 U.S.C. 7701(b)(2)(A).

(c) If the final decision of the Merit Systems Protection Board upholds the negative within-grade increase determination, an interim within-grade increase granted under this section shall be terminated on the date of the Board's final decision.

(d) If the final decision of the Merit Systems Protection Board overturns the negative within-grade increase determination, an interim within-grade increase granted under this section shall be made permanent and shall be granted retroactively to the first day of the first pay period beginning on or after completion of the applicable waiting period.

(e) An employee may not appeal the termination of an interim within-grade increase under paragraph (c) of this section.

[57 FR 3712, Jan. 31, 1992, as amended at 59 FR 24030, May 10, 1994; 59 FR 65703, Dec. 21, 1994]

## Subpart E—Quality Step Increases

SOURCE: 33 FR 12448, Sept. 4, 1968, unless otherwise noted.

### § 531.501 Applicability.

This subpart contains regulations of the Office of Personnel Management to carry out section 5336 of title 5, United States Code, which authorizes the head of an agency, or another official to whom such authority is delegated, to grant quality step increases.

[60 FR 43948, Aug. 23, 1995]

### § 531.502 Definitions.

*Agency* means an agency defined in section 5102 of title 5, United States Code.

*Employee* means an employee of an agency.

*Quality step increase* is synonymous with the term "step increase" used in section 5336 of title 5, United States Code, and means an increase in an employee's rate of basic pay from one step or rate of the grade of his or her position to the next higher step of that

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grade or next higher rate within the grade (as defined in § 531.403) in accordance with section 5336 of title 5, United States Code, section 4 of the Performance Management and Recognition System Termination Act of 1993 (Pub. L. 103–89), and this subpart.

[46 FR 2322, Jan. 9, 1981, as amended at 46 FR 41020, Aug. 14, 1981; 58 FR 65537, Dec. 15, 1993; 59 FR 40794, Aug. 10, 1994]

### § 531.503 Purpose of quality step increases.

The purpose of quality step increases is to provide appropriate incentives and recognition for excellence in performance by granting faster than normal step increases.

[60 FR 43948, Aug. 23, 1995]

### § 531.504 Level of performance required for quality step increase.

A quality step increase shall not be required but may be granted only to—

(a) An employee who receives a rating of record at Level 5 ("Outstanding" or equivalent), as defined in part 430, subpart B, of this chapter; or

(b) An employee who, when covered by a performance appraisal program that does not use a Level 5 summary—

(1) Receives a rating of record at the highest summary level used by the program; and

(2) Demonstrates sustained performance of high quality significantly above that expected at the "Fully Successful" level in the type of position concerned, as determined under performance-related criteria established by the agency.

[60 FR 43948, Aug. 23, 1995]

### § 531.505 Restrictions on granting quality step increases.

As provided by 5 U.S.C. 5336, a quality step increase may not be granted to an employee who has received a quality step increase within the preceding 52 consecutive calendar weeks.

[51 FR 8421, Mar. 11, 1986]